IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH POUSHA 1928

MACA.No. 2085 of 2006()

OPMV.1342/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR

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APPELLANT/1ST RESPONDENT :

WILSON, S/O. VARGHESE
NJESHUNGAN HOUSE
NEAR TEMPLE, CHELAMATTAM KARA
CHELAMATTAM VILLAGE.

BY ADV. SRI.SUNIL CYRIAC

RESPONDENTS: PETITIONER & 2ND RESPONDENT

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1. AYYAPPANKUTTY
   AGED 47 YEARS, S/O. KAVALAN
   ERAYACKETTUKUDY HOUSE
   KANJIRAKKADU KARA
   PERUMBAVOOR VILLAGE.

2. UNITED INDIA INSURANCE CO. LTD.
   BRANCH OFFICE
   PERUMBAVOOR.

BY ADV. SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

M.A.C.A. No. 2085 of 2006

Dated this the 5th day of January, 2007

JUDGMENT

The appellant was the first respondent before the Motor Accidents Claims Tribunal. One Ayyappankutty filed the O.P. (MV) before the Tribunal and a sum of Rs.25,810/- was awarded in his favour. The Tribunal found that the appellant herein was not having a driving licence. The appellant did not appear before the Tribunal, nor did he produce the driving licence. On the finding that he was not having a valid driving licence, the Tribunal permitted the second respondent, insurer, to proceed against the appellant herein for recovery of the amount paid to the claimant. The appellant challenges that part of the award which permits the insurer to proceed against the appellant. Along with the Memorandum of Appeal, the appellant has produced the driving licence particulars, which would show that the licence was valid up to 12.1.2014. The accident took place on 10.7.2000. Therefore, the contention of the appellant/ petitioner is that at the time when the accident took place, the appellant was having a valid driving licence.

2. The Tribunal held that at the time of the accident, the first respondent was not holding valid driving licence. There is no material to indicate that any such evidence was produced before the Tribunal. The insurance company was also bound to check up whether the driver was having a valid driving licence. In the facts and circumstances, I am of the view that the appellant could be given an opportunity to prove his contentions before the Tribunal.

In the result, the award passed by the Tribunal to the extent to which it held that the insurer is at liberty to recover the amount of compensation from respondent No.1-appellant, is set aside and the matter is remanded to the Tribunal for fresh consideration of that question alone. The parties shall appear before the Tribunal on 5th February, 2007. The Tribunal shall dispose of the matter as expeditiously as possible.

K.T.SANKARAN,
JUDGE

csl